

ESTTA Tracking number: **ESTTA76348**Filing date: **04/14/2006**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Sigma Relocation Group, LLC d/b/a Umovefree.com
Granted to Date of previous extension	04/19/2006
Address	2701 MacArthur Blvd.Ste. 214 Lewisville, TX 75067 UNITED STATES
Attorney information	Scott L. Harper Carstens & Cahoon LLP 13760 Noel Rd.Ste. 900 Dallas, TX 75240 UNITED STATES harper@cclaw.com

**Applicant Information**

Application No	78589267	Publication date	12/20/2005
Opposition Filing Date	04/14/2006	Opposition Period Ends	04/19/2006
Applicant	Moveforfree.com 8535 Wurzbach, Suite 101 San Antonio, TX 78240 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 036. First Use: 1999/10/01 First Use In Commerce: 2000/03/01 All goods and seivces in the class are opposed, namely: Apartment locating services, operating marketplaces for sellers of real estate; real estate brokerage; and real estate listing	
Related Proceedings	Cancellation Number 92044611 MOVEFORFREE.COM vs. UMOVEFREE.com, et al.,Cause No. 05-03739, M-298th Judicial Court, Dallas County, Texas
Attachments	Notice of Opposition.pdf ( 11 pages )
Signature	/scott l harper/
Name	Scott L. Harper
Date	04/14/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE  
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Application No. 78/589,267  
Date of Publication: December 20, 2005

**SIGMA RELOCATION GROUP, LLC** §  
**D/B/A UMOVEFREE.COM** §  
*Opposer,* §

v. §

**MOVEFORFREE.COM, INC.** §

*Applicant.* §

**Opposition No.** \_\_\_\_\_

**NOTICE OF OPPOSITION**

COMES NOW, Opposer Sigma Relocation Group, LLC, a Texas limited liability company, d/b/a UMOVEFREE.COM (“Opposer”), having an address of 2701 MacArthur Blvd., Ste. 214, Lewisville, Texas 75067, and believes that it is or will be damaged by registration of the mark shown in Application Serial No. 78/589,267, and therefore opposes registration. As grounds for this opposition, it is alleged that:

1. Opposer is engaged in the apartment moving and relocation service industry and provides said services to the general public within the United States. Opposer has acquired common law trademark rights in the mark UMOVEFREE.COM™ and uses the mark to represent and advertise its apartment moving and relocation services to the public.

2. Opposer has developed extensive goodwill throughout the United States with respect to the mark UMOVEFREE.COM™. Opposer has spent substantial sums in the advertising and promotion throughout the United States of the services provided under the UMOVEFREE.COM™ mark. As a result of the expenditure of considerable sums for promotional activities, advertising, and by virtue of their services, the Opposer has garnered a valuable reputation for its UMOVEFREE.COM™ mark and services represented by same.

3. The Applicant has obtained U.S. Registration No. 2,953,832, which resides on the Supplemental Register, for the mark MOVEFORFREE.COM for “apartment locating services; providing information in the field of real estate, namely properties available for purchase or rent by means of a web site; real estate brokerage; and real estate listing” in International Class 36, and “moving van services” in International Class 39. Registrant claims a first use date of October 1, 1999 and a first use in commerce date of March 1, 2000.

4. On June 10, 2005, Opposer initiated a cancellation proceeding, Cancellation No. 92044611, requesting that U.S. Registration No. 2,953,832 be cancelled from the Supplemental Register on grounds that the mark MOVEFORFREE.COM is generic. Such proceeding is currently ongoing before the Trademark Trial & Appeal Board.

5. On March 17, 2005, Applicant filed a Section 1(a) application to register MOVEFOREFREE.COM on the Principal Register, under Section 2(f) of the Trademark Act, as a trademark for “Apartment locating services, operating marketplaces for sellers of real estate;

real estate brokerage; and real estate listing” in International Class 36. In return for using such services of the Applicant, the consumer is given a “free move” as clearly shown in the specimen submitted by the Applicant to the USPTO, see Exhibit A. Applicant claims a first use date of October 1, 1999 and a first use in commerce date of March 1, 2000. This application was designated as Serial No. 78/589,267. The application was published in the Official Gazette on December 20, 2005.

6. Opposer would show that the Applicant’s MOVEFORFREE.COM mark is generic, and/or at the very least descriptive, and is not entitled to registration on the Principal Register. Opposer would show that Applicant’s mark MOVEFORFREE.COM has not acquired secondary meaning or become distinctive of the Applicant’s goods/services in the marketplace. The mark proposed to be registered by the Applicant would be and is taken by prospective consumers in the trade to designate a type of apartment locating and real estate service that provides the consumer with a “free move” for using the Applicant’s services, as clearly shown in Exhibit A.

7. If the Applicant is granted the registration herein opposed, it would thereby obtain at least a prima facie exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer and others in the apartment locating and real estate industry who use the terms “move” and “free” to indicate a type of apartment locating and real estate services, requiring the Opposer and the trade to abandon its use and change its promotional and advertising methods, all to the detriment and great expense of Opposer.

WHEREFORE, PREMISES CONSIDERED, Opposer prays that Application No. 78/589,267 be refused registration and that this opposition be sustained.

Date: April 14, 2006

Respectfully submitted,

By: \_\_\_\_\_

Scott L. Harper  
USPTO Reg. No. 45783  
State Bar No. 00795038  
**CARSTENS & CAHOON, L.L.P.**  
13760 Noel Road, Suite 900  
Dallas, Texas 75240  
972.367.2001 (*Telephone*)  
972.367.2002 (*Facsimile*)

**ATTORNEY FOR OPPOSER**

## EXHIBIT A

## Trademark/Service Mark Application, Principal Register

Serial Number: 78589267

Filing Date: 03/17/2005

The table below presents the data as entered.

Input Field	Entered
<b>MARK SECTION</b>	
MARK	MOVEFORFREE.COM
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	MOVEFORFREE.COM
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
<b>OWNER SECTION</b>	
NAME	Moveforfree.com
STREET	8535 Wurzbach, Suite 101
CITY	San Antonio
STATE	Texas
ZIP/POSTAL CODE	78240
COUNTRY	United States
AUTHORIZED EMAIL COMMUNICATION	No
<b>LEGAL ENTITY SECTION</b>	
TYPE	CORPORATION
STATE/COUNTRY OF INCORPORATION	Texas
<b>GOODS AND/OR SERVICES SECTION</b>	
INTERNATIONAL CLASS	036
DESCRIPTION	Apartment locating services; operating marketplaces for sellers of real estate; providing information in the field of real estate by means of a web site; real estate brokerage; and real estate listing
FILING BASIS	Section 1(a)
FIRST USE ANYWHERE DATE	At least as early as 10/01/1999
FIRST USE IN COMMERCE DATE	At least as early as 03/01/2000

SPECIMEN FILE NAME(S)	\\TICRS\EXPORT1\IMAGEOUT 11\785\892\78589267\xml\ APP0003.JPG
SPECIMEN DESCRIPTION	Advertisement of services
<b>ADDITIONAL STATEMENTS SECTION</b>	
SECTION 2(f)	The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.
<b>SIGNATURE SECTION</b>	
SIGNATURE	/michaeldiaz/
SIGNATORY NAME	Michael Diaz
SIGNATORY DATE	03/17/2005
SIGNATORY POSITION	Attorney
<b>PAYMENT SECTION</b>	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	325
TOTAL AMOUNT	325
<b>ATTORNEY</b>	
NAME	Michael L. Diaz
FIRM NAME	Michael L. Diaz, P.C.
STREET	555 Republic Drive Suite 200
CITY	Plano
STATE	Texas
ZIP/POSTAL CODE	75074
COUNTRY	United States
PHONE	(972) 578-5669
FAX	(972) 422-9138
EMAIL	mike@txpatent.com
AUTHORIZED EMAIL COMMUNICATION	Yes
ATTORNEY DOCKET NUMBER	5037-0005
<b>CORRESPONDENCE SECTION</b>	
NAME	Michael L. Diaz
FIRM NAME	Michael L. Diaz, P.C.



STREET	555 Republic Drive Suite 200
CITY	Plano
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COUNTRY	United States
PHONE	(972) 578-5669
FAX	(972) 422-9138
EMAIL	mike@txpatent.com
AUTHORIZED EMAIL COMMUNICATION	Yes
<b>FILING INFORMATION</b>	
SUBMIT DATE	Thu Mar 17 12:58:56 EST 2005
TEAS STAMP	USPTO/BAS-21622423730-200 50317125856384252-7858926 7-200b768ff19592c45131ebb 692834ef41-CC-1256-200503 17125741395763

## Trademark/Service Mark Application, Principal Register

**Serial Number: 78589267**

**Filing Date: 03/17/2005**

### To the Commissioner for Trademarks:

**MARK:** (Standard Characters, see mark)

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The literal element of the mark consists of MOVEFORFREE.COM.

The applicant, Moveforfree.com, a corporation of Texas, residing at 8535 Wurzbach, Suite 101, San Antonio, Texas, United States, 78240, requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended.

The applicant, or the applicant's related company or licensee, is using the mark in commerce, and lists below the dates of use by the applicant, or the applicant's related company, licensee, or predecessor in interest, of the mark on or in connection with the identified goods and/or services. 15 U.S.C. Section 1051(a), as amended.

International Class 036: Apartment locating services; operating marketplaces for sellers of real estate; providing information in the field of real estate by means of a web site; real estate brokerage; and real estate listing

In International Class 036, the mark was first used at least as early as 10/01/1999, and first used in commerce at least as early as 03/01/2000, and is now in use in such commerce. The applicant is submitting or will submit one specimen for *each class* showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) Advertisement of services.

Specimen - 1

The mark has become distinctive of the goods/services through the applicant's substantially exclusive and continuous use in commerce for at least the five years immediately before the date of this statement.

The applicant hereby appoints Michael L. Diaz of Michael L. Diaz, P.C., 555 Republic Drive Suite 200, Plano, Texas, United States, 75074 to submit this application on behalf of the applicant. The attorney docket/reference number is 5037-0005.

The USPTO is authorized to communicate with the applicant or its representative at the following email address: mike@txpatent.com.

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

#### **Declaration**

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /michaeldiaz/ Date: 03/17/2005

Signatory's Name: Michael Diaz

Signatory's Position: Attorney

Mailing Address:

Michael L. Diaz

555 Republic Drive Suite 200

Plano, Texas 75074

RAM Sale Number: 1256

RAM Accounting Date: 03/17/2005

Serial Number: 78589267

Internet Transmission Date: Thu Mar 17 12:58:56 EST 2005

TEAS Stamp: USPTO/BAS-21622423730-200503171258563842

52-78589267-200b768ff19592c45131ebb69283

4ef41-CC-1256-20050317125741395763

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